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BEFORE THE

Federal Communications Commission

WASHINGTON, D.C.

In the Matter of	)	
	)	
Redevelopment of Spectrum to Encourage Innovation in the Use of New Telecommunications Technologies	)	ET Docket No. 92-9

PETITION FOR RECONSIDERATION
OF
AMSC SUBSIDIARY CORPORATION

AMSC Subsidiary Corporation ("AMSC"), pursuant to Section 1.429 of the Commission's Rules, hereby urges the Commission to reconsider its decision to apply relocation rules in the 1970-1990 MHz and 2160-2180 MHz bands.[1/] AMSC has proposed that these frequencies should be used for a satellite component to ground-based Personal Communications Services ("PCS").[2/] Sharing between satellite and incumbent users raises unique issues that are not adequately addressed by the new relocation rules. Thus, the Commission should defer development of relocation rules for possible satellite frequencies until the Commission can fully address these issues.

AMSC is licensed by the Commission to construct and operate the U.S. Mobile Satellite Service ("MSS") system in the 1544-

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1/ Third Report and Order and Memorandum Opinion and Order ("Third Report and Order"), ET Docket No. 92-9, 58 Fed. Reg. 46547 (September 2, 1993). As a party to this proceeding, AMSC has standing to file this Petition.

2/ Comments of American Mobile Satellite Corporation, GEN Docket No. 90-314 (January 9, 1992).

1559/1645.5-1660.5 MHz bands. Construction of the system is well underway, with launch of the first satellite scheduled for 1994. AMSC also has contracted for development of the system's ground segment.

One problem facing AMSC is the availability of spectrum to fully develop its MSS system. Unlike terrestrial services, MSS systems are not assured access to all of the spectrum assigned by the Commission. This is so because use of the frequencies must be coordinated internationally with other countries that have an interest in protecting systems that they operate or propose to operate on the same frequencies.

Within the bands currently assigned to AMSC, international coordination has been a formidable task because of the large increase in the number of MSS systems that operate or plan to operate in the limited amount of MSS spectrum allocated internationally within the 1.5/1.6 GHz bands. AMSC's experience has given rise to serious question whether sufficient spectrum can be coordinated for the full development of the U.S. system.

For this reason, AMSC and others have been actively advocating additional MSS allocations at the FCC and international fora. MSS proponents were successful at the 1992 World Administrative Radio Conference, at which 306 MHz of additional spectrum were allocated to MSS in the 1-3 GHz range. A number of these additional allocations were made in the bands that the Commission has since allocated for emerging

technologies.[3/] Specifically, WARC-92 adopted the following allocations for MSS within the 1850-2200 MHz range:

1930-1970 MHz (Earth-to-Space) (Region 2, secondary)
1970-1980 MHz (Earth-to-Space) (Region 2, primary)
1980-2010 MHz (Earth-to-Space) (Worldwide, primary)

2120-2160 MHz (space-to-Earth) (Region 2, secondary)
2160-2170 MHz (space-to-Earth) (Region 2, primary)
2170-2200 MHz (space-to-Earth) (Worldwide, primary)

The primary MSS allocations in the 1970-2010 MHz and 2160-2200 MHz bands will be available in the U.S. on January 1, 1996, and worldwide in the year 2005. The secondary allocation will be available on October 12, 1993.

AMSC has consistently maintained throughout this and the PCS proceeding (Gen Docket No. 90-314), that the MSS spectrum allocated at WARC-92 should be similarly allocated for MSS within the United States.[4/] Though the Commission has not specifically addressed the issue, it appears that a portion of the frequencies, 1970-1990 MHz and 2160-2180 MHz, may be available for the Mobile Satellite Service.[5/] Accordingly, AMSC plans to

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3/ The Commission is making available the 1850-1990 MHz, 2110-2150 MHz and 2160-2200 MHz bands for emerging technologies, including MSS. First Report and Order and Third Notice of Proposed Rule Making, ET Docket No. 92-9, 7 FCC Rcd 6886 (1992).

4/ See e.g. Comments of AMSC Subsidiary Corporation, ET Docket No. 92-9 (June 8, 1992).

5/ The Commission's PCS allocation is in the 1850-1890 MHz, 1930-1970 MHz, 2130-2150 MHz and 2180-2200 MHz bands. PCS Press Release, Gen Docket 90-314 (September 23, 1993).

file in the near future a Petition for Rulemaking to allocate the bands domestically to MSS and an application to use the bands.

In the Third Report and Order in this proceeding, the Commission promulgated rules for relocation of existing fixed microwave licensees within the Emerging Technology Bands.[6/] The rules provide for a fixed two-year period during which emerging technology licensees and incumbent licensees are encouraged to negotiate the terms of relocation.[7/] After the fixed period expires, an emerging technology licensee may initiate a one-year period for mandatory negotiation between the fixed microwave licensee and the emerging technology licensee. After expiration of the mandatory negotiation period, involuntary relocation of the fixed microwave facilities may be sought if agreement is not reached by the parties. In all cases of voluntary relocation, the emerging technology provider will be required to pay all costs associated with the relocation. Public safety licensees are exempt from mandatory relocation.

The Commission's relocation rules were developed for local market, terrestrial technologies and may not be feasible for mobile satellite systems, which operate nationwide or, in some cases, worldwide. Application of the relocation rules to MSS are

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6/ The Commission noted that the specific services that will use the spectrum will be authorized in future proceedings. Id. at note 2.

7/ The Commission has previously made available frequencies in the 3 GHz band for fixed microwave licensees relocated from the 2 GHz band.

impractical and could significantly impede development of the new service.

MSS is a service that covers huge land masses to provide a truly ubiquitous and universal service to consumers. Because the satellite coverage areas are so large, and the terminals are mobile, MSS for the most part requires spectrum unencumbered by other users. It would be unreasonable to expect an MSS licensee (particularly one that has to purchase an authorization through an auction) to negotiate with the thousands of licensees that are currently operating within the 1970-1990 MHz and 2160-2180 MHz bands, or to spend the more than $400 million expected to be needed to relocate the existing users. Moreover, public safety licensees operate throughout the 1970-1990 MHz band. Therefore, there would be no guarantee that any of the frequencies would be clear for MSS.[8/]

8/ The MSS licensee would also be required to coordinate the spectrum internationally with other countries using or planning to use the same frequencies.

Conclusion

As discussed above, relocation of incumbents from any bands allocated for the satellite component of PCS raises unique issues not adequately addressed in this proceeding. AMSC therefore respectfully requests that the Commission modify its order to limit at this time the relocation rules to those frequencies allocated for terrestrial PCS.

Respectfully submitted,

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